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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,423	03/11/2002	Clemente Spehr	8074-3 (P13735 SB/vat)	3308

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EXAMINER

YIMAM, HARUN M

ART UNIT PAPER NUMBER

2623

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/980,423	<b>Applicant(s)</b> SPEHR, CLEMENTE	
	<b>Examiner</b> Harun M. Yimam	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Note to Applicant**

Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 12/27/2005 have been fully considered but they are moot in view of the new grounds of rejection.

Although a new ground of rejection has been used to address additional limitations that have been added to claims 24–38, a response is considered necessary for several of applicant's arguments since references Zigmond (US 6,698,020) and Goldschmidt (US 6,483,987) will continue to be used to meet several claimed limitations.

2. In response to applicant's argument (page 6, 5<sup>th</sup> paragraph) that Zigmond does not teach "determining when one of said undesirable program section starts and ends...", applicant should note that Zigmond discloses that the during the suppression of undesirable program sections, the triggering event indicates the appropriate time that the undesirable program sections starts and ends (column 4, lines 36-52).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 24, 25, 27-31, 34-36 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond (US 6,698,020).

Considering claim 24, Zigmond discloses a method of suppressing the recording and/or reproduction of undesirable program sections (advertisements—column 4, lines 36-52) of a program sequence transmitted by a transmitter (video programming feed 52 in figure 4 is transmitted to display device 58. Therefore, the transmitter is inherently disclosed—column 7, lines 13-25) to an entertainment electronic device (see 58 and 60 in figure 4), comprising the steps of:

automatically analyzing said transmitted program sequence while being transmitted (column 8, lines 39-54 and column 15, lines 35-44), determining when one of said undesirable program sections starts and ends (column 4, lines 36-52, column 8, lines 39-54 and column 15, lines 35-44), said determination comprising automatically

comparing said program sequence while being transmitted with a plurality of program sections (column 11, lines 24-49 and column 15, lines 45-65) stored in a database (advertisement repository 86 in figure 5—column 15, lines 24-34 and column 16, lines 43-56), said program sections stored in said database corresponding to previously identified undesirable program sections (the advertisements stored in said advertisement repository are prefiltered during the transmission of video programming feed—column 15, lines 24-34 and column 16, lines 43-56);

automatically generating a first signal (triggering signal) if said program sequence starts to correlate with one of said program sections stored in said database (since the advertisements or the undesirable program sections stored in said database are initially prefiltered from said video programming feed, the program sequence is already analyzed and the triggering signal that indicates the undesirable program sections appears in the video programming feed at a pre-identified or otherwise determined period of time before the onset of the subsequent advertisement series—column 15, lines 24-65);

sending said first signal to said entertainment electronic device (column 8, lines 48-54) which switches from a first operating state to a second operating state (displaying the selected/targeted ads—column 7, lines 26-32) in response to said first signal (specified by encoded data in the video programming feed—column 7, lines 26-27);

automatically generating a second signal (column 8, lines 48-54) if said analysis indicates said end of one of said undesirable program sections within said program sequence; and

sending said second signal to said entertainment electronic device (the triggering signal appears at a pre-identified period of time before the onset of each subsequent advertisement series—column 15, lines 52-61) which switches from said second operating state to one of said first operating state or to a third operating state in response to said second signal (the ad insertion device/ WebTV box 80 in figure 5 determines the precise time for inserting a selected advertisement by processing the transmitted triggering signal—column 15, lines 52-61. Afterwards the video programming is resumed—column 4, lines 51-52, or continue to display the selected subsequent advertisement—column 10, lines 19-22 and column 17, lines 37-42).

As for claim 25, Zigmond discloses that the said program sequence comprises a picture signal (black screen—column 8, lines 39-54), and wherein each of said program sections (prefiltered advertisements) stored in said database comprises picture signals (video of the pre-selected advertisements—column 15, lines 35-44).

Regarding claim 27, Zigmond discloses that the said comparison of said program sequence with said program sections stored in said database is a first criterion for determining said start of one of said undesired program sections (column 15, lines 45-65).

Considering claim 28, Zigmond discloses a second criterion, wherein the second criterion comprises recognizing of special patterns (column 8, lines 41-54).

As for claim 29, Zigmond discloses that determining said start of one of said undesired program sections comprises a first weighting assessment (switching decision unit 88 in figure 5—column 15, lines 35-44) of said first criterion (comparison of said program sequence with said program sections stored in said database) and said second criteria (recognizing of special patterns) (by the structure of the video programming feed 52 in figure 3—column 7, lines 25-34 and column 15, lines 40-44), and said first signal (triggering event) is generated if said first weighting assessment reaches a predefined first threshold value (column 15, lines 52-65).

With regards to claim 30, it is met by the limitations of claim 24.

Regarding claim 31, it is met by the limitations of claim 24.

With regards to claim 34, Zigmond discloses that said first and second signals (triggering events—column 8, lines 30-54) are provided by an online service provider (column 7, lines 6-9 and 16-21), and further comprise the step of transmitting information with regard to a consumer behavior (viewer information—column 11, lines

14-30) of the user of said entertainment electronic device to said online service provider (column 4, lines 55-61 and column 10, lines 4-15).

Regarding claim 35, Zigmond discloses the steps of:

evaluating said information with regard to said consumer behavior at said online service provider (column 4, lines 25-35); and

selecting a replacement program in accordance with said evaluation and transmitting said replacement program to said entertainment electronic device by said online service provider (column 7, lines 61-67).

Considering claim 36, Zigmond discloses buffering of the replacement program (selected ads) (the transmitted selected ads are received and stored in a buffer memory - advertisement repository—column 15, lines 24-34 and column 16, lines 43-56), in a buffer memory (86 in figure 5); and temporally staggered reproduction of the buffered replacement program (the delay code embedded in the video programming stream temporally staggers the reproduction of the buffered replacement program—column 16, lines 30-43).

With regards to claim 38, Zigmond discloses that said entertainment electronic device is a television (column 4, lines 37-42) and said program sequence is a television program sequence (video programming feed, 52 in figure 3—column 8, lines 30-54).



***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26, 32, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Goldschmidt (US 6,483,987).

With regards to claim 26, Zigmond discloses that the apparatus is a television (column 4, lines 37-42) and evaluating a television picture sequence according to predetermined criteria for advertising block identification by the identification device (column 8, lines 48-54).

Zigmond fails to explicitly disclose storing the television information separately according sound and picture sequence, and evaluating said sound sequence for advertising block identification by the identification device.

In analogous art, Goldschmidt discloses evaluating sound sequences for advertising block identification by the identification device (column 5, lines 44-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond's system to include the evaluation of sound sequence for advertising block identification, as taught by Goldschmidt, for the benefit of increasing the reliability of advertising block identification by providing an alternate means for detecting upcoming advertising block.

Considering claim 32, Zigmond discloses that the video programming resumes upon termination of said advertisement (column 4, lines 51-52).

Zigmond fails to explicitly disclose a fourth criterion, wherein the fourth criterion comprises detecting transmitted subtitles.

In analogous art, Goldschmidt discloses a fourth criterion - detecting transmitted subtitles (column 6, lines 28-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond's system to include detecting transmitted subtitles, as taught by Goldschmidt, for the benefit of identifying the completion of an advertisement and the resuming the video programming feed (Goldschmidt—column 6, lines 34-37).

As for claim 33, Zigmond fails to explicitly disclose the claimed limitations.

In analogous art, Goldschmidt discloses that said analysis to determine said end comprises a second weighting assessment (VBI analyzer 410—column 6, lines 41-44) of said third criterion (comparison of said program sequence with said preceding sequence parts) and said fourth criteria (detecting a change of a picture format of said program sequence) (column 6, line 34 – column 7, line 8), and said second signal (program indicator) is generated if said second weighting assessment reaches a predefined second threshold value (column 6, lines 41-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond's system to include a second weighting assessment and generation of a second signal if said second weighting assessment reaches a predefined second threshold value, as taught by Goldschmidt, for the benefit of recognizing the point wherein the video programming feed resumes in the program sequence (Goldschmidt—column 6, lines 41-65).

Regarding claim 37, Zigmond discloses a method for suppressing the reproduction of undesirable advertisements (column 4, lines 36-52). Zigmond further discloses that the home entertainment system has video programming recording capabilities (column 6, lines 45-47).

Zigmond fails to explicitly disclose that the recording of a transmission onto a medium of a recording device contains the step of stopping said recording during said

transmission of said transmitted program sequence of an undesirable program section and resuming it after the end of said undesirable program section.

In analogous art, Goldschmidt discloses that a recording of a transmission onto a medium of a recording device contains the step of stopping said recording during said transmission of said transmitted program sequence of an undesirable program section (commercial) and resuming it after the end of said undesirable program section (column 1, lines 49-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond's system to include the step of stopping said recording during said transmission of said transmitted program sequence of an undesirable program section (commercial) and resuming it after the end of said commercial, as taught by Goldschmidt, for the benefit of recording a desired television program without any commercial interruption.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6000.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HMY



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